

REPORT - PLANNING COMMISSION MEETING
March 11, 2004

Project Name and Number: VISTA GRANDE (PLN2003-00078)

Applicant: Deccan Pacific Partners, LPI

Proposal: To consider a revised Preliminary Grading Plan for a 17 lot subdivision and public street. The proposed project implements an approved Vesting Tentative Tract Map 6546 and Planned District (P-90-17).

Recommended Action: Approve based on findings and subject to conditions

Location: 44110 Hunter Lane in the Mission San Jose Planning Area

Assessor Parcel Number(s): 513-0325-005-00 and 513-0325-006-00

Area: Eleven acres

Owner: Ramesh C. & Shakira Karipineni

Agent of Applicant: Alan L. Reeves, Esq.

Consultant(s): David M. Wilson PE, HMH Engineers

Environmental Review: A Mitigated Negative Declaration has been prepared for this project.

Existing General Plan: Very Low Density Residential, and Low Density Residential (0.5 – 1.5, and 2-3.5 dwelling units per acre), Hill Face Open Space.

Existing Zoning: Planned District, P-90-17(R)

Existing Land Use: Vacant

Public Hearing Notice: A total of 195 notices were mailed to owners and occupants of property within 1000 feet of the site on the following streets: Aguila Terrace, Cameron Hills Court, Chantecler Drive, Cougar Circle, Fawn Court, Hillcrest Terrace, Highland Place, Highland Terrace, Hunter Lane, Hunter Place, Hunter Terrace, Linda Vista Road, Linda Vista Terrace, Mission Boulevard, Montclair Terrace, Partlet Court, Pilgrim Loop, Poulard Court, Overlook Terrace, Owl Court, View Point Circle, View Point Court, Vista Cerro Terrace, Vista Del Mar, Vista Del Sol, Vista Hill Terrace, and Woodside Terrace. The notices to owners and occupants were mailed on March 1, 2004. A Public Hearing Notice was delivered to The Argus on February 25, 2004 to be published by March 1, 2004.

Executive Summary: The application is for approval of a revised Preliminary Grading Plan for a 17 lot subdivision and public street on an 11 acre parcel located on Hunter Lane. The proposed project implements an approved Vesting Tentative Tract Map 6546 and Planned District (P-90-17). The project is consistent with the City's General Plan and development standards.

Background and Previous Actions: The Planning Commission conditionally approved Preliminary Grading Plan GP-90-16 on October 10, 1991. On this same date, the Planning Commission recommended, to City Council, approval of Planned District P-90-17 and adoption of Mitigated Negative Declaration EIA-90-92. On November 19, 1991, the City Council approved Planned District (P-90-17) and a Preliminary Grading Plan (GP-90-16) for the development of a proposed twenty-one lot subdivision, to accommodate 19 residential units. On September 24, 1992, the Planning Commission approved Vesting Tentative Tract Map 6546 for the subdivision of the subject property in the manner approved by the Planned District.

The original grading plan approval included the following condition:

- Condition of approval 13 of GP-90-16: The approval of the grading plan by the Planning Commission shall terminate two years from the date of Planning Commission approval.

The subsequent approval of Vesting Tentative Tract Map 6546 included the following condition:

- Condition of approval 2 of Vesting Tentative Tract Map 6546 (TR-6546): Conformance with P-90-1 (Site Plan Exhibit "B"), and all the conditions of approval of P-90-17 and Preliminary Grading Plan GP-90-16.

According to Condition 13 of GP-90-16, the preliminary grading plan expired on October 10, 1993. To conform to the conditions of Vesting Tentative Tract Map 6546, the applicant submitted a preliminary grading plan application in 2002 to replace the previously approved Preliminary Grading Plan GP-90-16. The Planning Commission approved that Preliminary Grading Plan on September 12, 2002. The conditions of approval for GP-90-16, as well as other conditions, were incorporated into the approval.

In terms of the Vesting Tentative Tract Map, on September 24, 1992, the Planning Commission approved Vesting Tentative Tract Map 6456, for subdivision of the subject property in the manner conceptually approved by P-90-17. The map was valid for two years and was then automatically extended by legislative action for an additional three years to September 24, 1997. The Planning Commission approved five one year time extensions for this Vesting Tentative Tract Map 6456 on October 23, 1997, November 19, 1998, November 18, 1999, October 26, 2000, and November 29, 2001. The applicant subsequently claimed that conditions added with the City granted extensions required compliance with the not yet adopted Mission Peak Landslide Area Development Policy and that the resulting delay was a de facto moratorium which automatically extends the life of the tract map by operation of the law. On January 27, 2004 the City Council upheld the applicant's position regarding the de facto moratorium and extended Vesting Tentative Tract Map 6456 for sixteen months (expires May 27, 2005).

Project Description: The applicant is requesting approval of a revised Preliminary Grading Plan to create 17 single family lots and a new public street as previously approved in the Planned District. The revisions are to the approved 2002 Preliminary Grading Plan. The estimated grading quantities for this project as proposed include 100,000 cubic yards of cut (including roadway excavation, slide repair and mud flow mitigation) and 88,000 cubic yards of fill. The difference between cut and fill, less shrinkage, is 2,000 cubic yards of off-haul. Of the 100,000 cubic yards of grading, approximately 42,000 cubic yards of grading is proposed to mitigate the mudflow and landslide repair identified by the Project Geotechnical Engineer. The proposed revisions include the reduction of the number of lots from 19 to 17. Other proposed changes include deletion of a flag lot that had the highest building site on the map, deletion of a lot on which building site access was difficult because of steep slopes, improvements to drainage design, and softening of slopes to reduce visual impacts. The detention basin has been relocated from the northern corner of Hunter Lane and Vista Grande Court to the upper, or high end, of the proposed cul-de-sac. Drainage will remain on the lots or be collected and discharged into a new underground system in the proposed road that connects to Hunter Lane. Two landslide repairs are also included in the proposed revised Preliminary Grading Plan. The mudflow buttress repair previously approved is also shown on the plan. The 2002 Preliminary Grading Plan required additional geotechnical analysis due to the March 1998 Mission Peak Landslide. The geotechnical conditions on the site have been further analyzed by the applicant's consultant, Terrasearch, and the report, conclusions and recommendations have been reviewed and approved by the City's geotechnical consultant.

PROJECT ANALYSIS:

General Plan Conformance: The existing General Plan land use designation for the project site is Very Low Density Residential, and Low Density Residential (0.5 to 1.5, and 2 to 3.5 dwelling units per acre), and Hill Face Open Space. The proposed project is consistent with the existing General Plan land use designation for the project site because this Preliminary Grading Plan for the creation of 17 new single-family lots implements the approved Planned District (P-90-17) and Vesting Tentative Tract Map 6456. The following General Plan Goals, Objectives and Policies are applicable to the proposed project:

Housing Goal H2. High Quality and Well-Designed New Housing of All Types throughout the City.

Health and Safety Objective HS 1.1. Development which responds to and minimizes geologic hazards.

Health and Safety Policy HS 1.1.2. Require proposed new development in areas of potential geologic hazard identified on Figure 10-1, Slope Instability Map, of the General Plan to evaluate geologic hazards and sufficiently mitigate hazards through site planning, appropriate construction techniques, building design and engineering.

Zoning Regulations: The Fremont Municipal Code 8-4108(a)(1) requires a Preliminary Grading Plan be approved by the Planning Commission for projects involving over 1,000 cubic yards of fill. The proposed Preliminary Grading Plan implements the creation of 17 single-family lots approved by Planned District, P-90-17 and Vesting Tentative Tract Map 6456.

Inclusionary Zoning: The project was approved prior to the City's inclusionary zoning requirements.

Waste Management: This project is subject to the provisions of the California Integrated Waste Management Act of 1989 (AB939), the City's Source Reduction and Recycling Element (1992), the Integrated Waste Management Ordinance (1995). These documents require that any new project for which a building permit application is submitted to include adequate, accessible, and convenient areas for collecting and loading trash and recyclable materials. The future residences will be subject to review during the building permit process for screened areas for storage of trash and recyclable materials containers.

ENGINEERING ANALYSIS:

Circulation/Access: Access to the project site is from Hunter Lane, an existing minor residential public street. Vesting Tentative Tract Map 6546, approved by the Planning Commission on September 24, 1992, proposed a new public street, Vista Grande Court, to provide access to the majority of the proposed lots. Vista Grande Court will be a new public cul-de-sac street with a pavement width of thirty-six feet and a right-of-way width of fifty-six feet.

In October 1993, the Planning Commission approved Tentative Parcel Map 6595 and Private Street PS-94-1. The tentative parcel map divided the seventy-two acre parcel into four parcels and provided a private street, Vista Grande Terrace, from Hunter Lane. Vesting Tentative Tract Map 6546 coincides with Lot 3 and Lot 4 of Parcel Map 6595. Vista Grande Terrace will be automatically quitclaimed when the final map for Tract 6546 is recorded. The required right-of-way dedications and street improvements for both Hunter Lane and Vista Grande Court were conditioned with the approval of Planned District P-90-17.

Grading & Drainage: The topography of the site is hilly and generally sloping to the southwest, with elevations ranging between 400 feet at the western portion adjacent to Hunter Lane, and 576 feet above mean sea level at the eastern limits of the 11-acre site. The proposed finished grades for the lots range between ten percent and twenty-three percent.

The estimated grading quantities for this project as proposed include 100,000 cubic yards of cut (including roadway excavation, slide repair and mud flow mitigation) and 88,000 cubic yards of fill. The difference between cut and fill less shrinkage is 2,000 cubic yards of off-haul. Of the 100,000 cubic yards of grading, approximately 42,000 cubic yards of grading is proposed to mitigate the mudflow and landslide repair identified by the Project Geotechnical Engineer. The City Engineer is requiring geotechnical studies for the mitigation of landslides and undocumented fills as identified in prior geotechnical studies.

Drainage: The drainage for the proposed development will be handled by an existing storm drainage system located in Hunter Lane. The drainage system for the project consists of underground storm drain pipes, through-curb drains, lot drain connections to a storm drain system, and a proposed detention basin above the proposed cul-de-sac. The proposed drainage system, although shown on the preliminary grading plan, is not approved with the preliminary grading plan. The drainage system shall be subject to approval of the City Engineer and the Alameda County Flood Control and

Water Conservation District. The City Geotechnical Consultant shall also review the drainage system for conformance with the project geotechnical report.

Urban Runoff Clean Water Program: The applicant will be required to conform to the City's Urban Runoff Clean Water Program requirements. Conditions of approval are included in the Preliminary Grading Plan to reflect this requirement.

ENVIRONMENTAL ANALYSIS: An Initial Study and Mitigated Negative Declaration were previously approved for this project in 1991 (EIA 90-92). In 1998 the Mission Peak Landslide occurred in the Fremont hill area. The 1998 Mission Peak Landslide Study (dated February 2000), conducted by Geolith Consultants on behalf of the City identified and mapped numerous historic landslides and areas susceptible to landslides. The proposed project is within the area which may be affected by the Mission Peak slide. The 2002 Initial Study and Subsequent Mitigated Negative Declaration evaluated only this new geotechnical information which was not known, and could not have been known, at the time the previous Mitigated Negative Declaration was adopted in 1991. All prior mitigation measures identified in the 1991 and 2002 Mitigated Negative Declarations still apply and are noted below.

An Initial Study has been prepared to analyze the revised Preliminary Grading Plan. The environmental analysis did not identify any new potential impacts as a result of the proposed project that had not been identified in previous environmental documents and accordingly, a Negative Declaration has been prepared for consideration by the Planning Commission. A more detailed description of this analysis is provided within the Initial Study for the project, which is included as an enclosure.

The initial study conducted for the revised Preliminary Grading Plan has evaluated the potential for this project to cause an adverse effect -- either individually or cumulatively -- on wildlife resources. There is no evidence the proposed project would have any potential for adverse effect on wildlife resources. Based on this finding, a Certificate of Fee Exemption will be submitted with the Notice of Determination after project approval, as required by Public Resources Code section 21089 (see attachment to draft Negative Declaration). The Certificate of Fee Exemption allows the project to be exempted from the review fee and environmental review by the California Department of Fish and Game.

Mitigation Measures from the 1991 and 2002 Mitigated Negative Declarations are as follows:

A. Mitigation Measures from EIA 90-92:

1. The City has recently implemented mitigation to survey sites prior to the commencement of any grading activities to determine whether or not the species (burrowing owl) is located on the site. Implementation of the City's mitigation measures for the protection of the burrowing owl will reduce the identified impact to a non-significant level.
2. Should removal of any of the existing trees on site be required, the replacement at a ratio of three trees for every one tree removed would mitigate the impact to a non-significant level. The new trees should be a minimum of 24 inch box specimens in size. These new trees would be in addition to the required street trees for this project. Implementation of the above-described mitigation measures would reduce any identified impacts to a non-significant level.

B. Mitigation measures from PLN2002-00325

1. Expansive clay soils: Expansive clay soils must be considered in the design of grading, foundations, drainage, and landscaping. The following three mitigation measures will simultaneously provide mitigation for the expansive clay soils at the site.
2. Undocumented fill: Fill must be removed during grading and if it is determined to contain less than 3% by weight of organic material, it can be reused and replaced as engineered fill. If it contains more than 3% by weight of organic material, it can be used in landscape areas or blended with new material and reused as engineered fill.

3. Relic Landslide feature: Further investigation by an engineering geologist or geotechnical engineer during grading to confirm the presence or absence of this feature and provide recommendation for mitigating any hazards. Any mitigation recommendations made by the consultant shall be implemented, with the approval of the City Engineer.
4. Mudflow material: Drill a row of piers along the north property line or excavate a minimum 30-foot wide strip of mudflow material along the north property line within the development area, and recompact the excavation with engineered fill. A separation material such as geotextile fabric should be placed between the engineered fill and the north side of the property line.

The above mitigation measures will be implemented as the project proceeds.

Response from Agencies and Organizations: No outside response or comment has been received at the time of publication of this report.

APPLICABLE FEES:

Development Impact Fees: This project will be subject to Citywide Development Impact Fees. These fees may include fees for fire protection, capital facilities and traffic impact. Residential projects/units will also be subject to park facilities and park dedication in-lieu fees. These fees shall be calculated at the fee rates in effect at the time of building permit issuance.

ENCLOSURES: Exhibit "A" Preliminary Grading Plan
Initial Study and Draft Negative Declaration
Applicant statement

EXHIBITS: Exhibit "A" Preliminary Grading Plan
Exhibit "B" Findings and Conditions of Approval

Recommended Actions:

1. Hold public hearing.
2. Find the initial study conducted for the revised Preliminary Grading Plan has evaluated the potential impacts that could cause an adverse effect, either individually or cumulatively, on wildlife resources. Therefore, find that there is no evidence the project would have any potential for adverse effect on wildlife resources and recommend the filing of a Certificate of Fee Exemption for the project.
3. Adopt the Draft Negative Declaration for the project finding that there is no substantial evidence that the project will have a significant effect on the environment and further finding that this action reflects the independent judgment of the City of Fremont.
4. Find that the proposed project is in conformance with the relevant provisions contained in the City's General Plan. These provisions include the designations, goals and policies set forth in the General Plan's Housing and Health and Safety Chapters as enumerated within the staff report. The project conforms to the goals and policies as enumerated in the staff report and Findings Exhibit adopted/recommended herewith.
5. Approve PLN2003-00078, as shown on Exhibit "A", subject to findings and conditions in Exhibit "B".

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EXHIBIT "B"
Findings and Conditions of Approval for
PLN2003-00078 (Preliminary Grading Plan)
Vista Grande

FINDINGS:

The findings below are made on the basis of information provided at the public hearing and contained in the staff report to the Planning Commission dated March 11, 2004, incorporated herein.

1. The proposed project, revisions to a previously approved preliminary grading plan, described in the application will not have an appearance, due to the grading, excavation, or fill, substantially and negatively different from previously approved grading plan. Under the proposed project, there will be fewer lots created, one less flag lot, the removal of a lot from a higher elevation (reducing visibility), and softening of graded areas.
2. The proposed project described in the application is located within the Hill Area. The applicant's geotechnical consultant, Terrasearch Inc., prepared a report, dated June 10, 2002, and revised July 24, 2002. The report includes analysis of the site geotechnical features and specifies mitigations. The City's geotechnical consultant reviewed and approved this report with the conditions that have been incorporated into the Preliminary Grading Plan conditions of approval.
3. The proposed project described in the application will not endanger public sewers, storm drains, water courses, streets, street improvements, or other property; will not interfere with existing drainage courses; and will not result in debris being deposited on any public way because of the improvements proposed as part of the project. The proposed development will not alter or obstruct the natural flow from abutting properties or divert drainage from its natural watershed. The applicant will be required to submit a plan to control erosion and siltation during and after construction for review and approval by the City Engineer.
4. The proposed project described in the application will not unacceptably affect the health, safety, and or welfare of adjacent residents or landowners, nor the citizens of Fremont as it is a low density residential development which will include necessary access, public improvements, requirements for wetbands to protect against wildfire hazards, and geotechnical mitigations to protect against future earth movement.

CONDITIONS:

1. Conformance with Exhibit "A" (Preliminary Grading Plan) and all conditions of approval of Planned District P-90-17.
2. Approval of this preliminary grading plan shall run concurrent with the approval and subsequent extensions of Vesting Tentative Tract Map 6546. Preliminary Grading Plan PLN2003-00078 shall expire upon expiration of Vesting Tentative Tract Map 6546.
3. Approval of this preliminary grading plan does not extend to the final detailed design approval necessary to be accomplished in connection with the development plans.
4. The developer shall provide for a functional drainage system subject to approval of the City Engineer and Alameda County Flood Control and Water Conservation District. The City Geotechnical Consultant shall review the drainage system for conformance with the project geotechnical report.
5. Individual lots shall be provided with a separate underground storm drain system. No overland flow to public roadway systems shall be permitted, except where reviewed and recommended by the project geotechnical consultant and approved by the City Engineer.

6. Site grading shall not obstruct natural flow from abutting properties or divert drainage from its natural watershed. The drainage area map developed for the hydrology design shall clearly indicate all the areas tributary to the project area.
7. All cut and fill slopes shall be constructed to a maximum of three horizontal to one vertical (3:1). Prior to approval of the final map, the developer shall submit a final grading plan to conform to this requirement, subject to review and approval of the City Engineer.
8. Proposed curb elevations for the street system shall not be less than 1.25 feet above the hydraulic grade line (design water surface) and at no point should the curb grade be below the energy grade line. On-site grades are to be a minimum of 0.75 feet above the hydraulic grade line.
9. The applicant shall provide for a functional system to control erosion and siltation during and after construction subject to review and approval by the City Engineer and Alameda County Flood Control and Water Conservation District. A separate plan shall be submitted for this purpose.
10. Prior to final map approval, the applicant shall submit, to the City of Fremont, three (3) copies of the project geotechnical report by Terrasearch, Inc. The project geotechnical report dated June 10, 2002, and revised July 24, 2002, shall be revised to provide a complete and up-to-date table of contents and consistent page and figure numbering.
11. The developer shall obtain a final grading permit in conjunction with the final map. Grading shall be subject to the approval of the City Engineer.
12. A disposal site for the off-site haul dirt materials or source for the import fill shall be approved by the City prior to the approval of the grading permit. The off-site haul route for the excess dirt or import fill shall be subject to the approval of the City Engineer.
13. The applicant shall submit "as-built" plans for the completed grading work for the whole development, including the grading work for each individual lot, prior to issuance of the building permits for lots 1 through 17.
14. All retaining walls shall be limited to a maximum height of three feet. All retaining walls supporting surcharge shall be reinforced concrete or approved equal. Pressure treated wood retaining walls will be allowed for retaining walls 12-inches or less in height.
15. Grading operations shall be in accordance with recommendations contained in the required soils report and be supervised by an engineer registered in the State of California to do such work. City staff will assume inspection responsibility for street grading at a point six inches below planned subgrade.
16. The applicant may be allowed grading deviation up to a maximum of one foot (plus or minus) between the preliminary grading plan and the final grading plan. Deviation over one foot may be referred to the Planning Commission subject to approval of the City Engineer.
17. Prior to the commencement of any sitework for the proposed development, the developer shall provide evidence that a Notice of Intent (NOI) has been submitted in compliance with the State of California Water Resources Control Board Order No. 92-08-DWQ, NPDES permit No. CAS000002.
18. The minimum drainage slope in swales shall be 1.5%. All paved slopes should be a minimum of 0.5%.
19. The development of this site is not to augment runoff to the Zone 6, Line K facilities of the Alameda County Flood Control and Water Conservation District. A modified runoff coefficient of 0.4 was assigned to this site in the hydrology calculations prepared for Tracts 5607 and 5701 to size the storm drain pipes along Hunter Lane. If the proposed development warrants a higher runoff coefficient than the originally assigned value, mitigation measures

will have to be provided, subject to review and approval of the City Engineer and the Alameda County Flood Control and Water Conservation District.

20. The storm drain design of this tract shall be coordinated with the overall storm drain system of the entire tributary area upstream of the proposed project.
21. Hydrology studies for the developed conditions being proposed shall demonstrate that there will be no net increase in the peak runoff produced by the 15-year design storm generated from the site at the point of connection.
22. The applicant shall provide measures to prevent the discharge of contaminated materials into public drainage facilities. It is the responsibility of the applicant to comply with Federal, State, and local water quality standards and regulations.
23. Prior to issuance of any building or grading permits on this site, a detailed grading and drainage plan with supporting calculations and a completed Drainage Review Checklist must be submitted to the Alameda County Flood Control and Water Conservation District for review.
24. The subdivision improvement plans, including the mudflow repair plans and all landslide repair plans, shall be reviewed and approved by the Project Geotechnical Consultant for conformance with the design recommendations contained in the project geotechnical report and for conformance with standards of good geotechnical practice. Upon their approval, the Project Geotechnical Consultant shall submit a letter with the results of their plan review and a copy of the approved plans to the City of Fremont for review and approval by the City Engineer and the City Geotechnical Consultant.
25. Prior to approval of any grading permit for the project, the mudflow repair plans shall be submitted to the City for review and approval by the City Engineer and City Geotechnical Consultant.
26. Lot 17 shall remain undeveloped until such time as the Alameda County Water District and the City of Fremont have determined the soils in the vicinity of the Mayhew Reservoir are capable of supporting residential development, including associated roadways.
27. Grading, drainage, and building design shall conform to the recommendations in the approved project geotechnical report.
28. An identified shallow landslide exists upslope of Lot 9 and Lot 10. Landslide repair plans shall be prepared and submitted as part of the subdivision grading plans, subject to review and approval of the City Engineer and the City Geotechnical Consultant.
29. The shallow landslide contained in Lot 10 and Lot 11 must be detailed for stabilization as part of subdivision grading, subject to review and approval of the City Engineer and the City Geotechnical Consultant.
30. The southern portions of Lot 6 and Lot 7 contain a mapped old landslide. Future residential development plans on Lot 6 and Lot 7 shall be reviewed and approved by the City Engineer and the City Geotechnical Consultant to verify that these special conditions are adequately mitigated.